IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.600 OF 1998

The Commissioner of Income-tax,
Bombay City - VI, Bombay .. Applicant.
V/s.
M/s.Gujchem Distillers (I) Ltd. .. Respondent.

Mr.Parag Vyas for the applicant.

CORAM : V.C. DAGA &
J.P. DEVADHAR, JJ.

DATED : 11TH OCTOBER, 2005.

P.C. :

1. Heard the learned counsel for the applicant. The Tribunal has referred following questions for the opinion of this Court reading as under :-

> 1. Whether in the facts and in the circumstances of the case, the Tribunal was right in law in holding that the assessee was entitled to depreciation from the written down value of the assets computed without deducting the amount of subsidy received from the Government ?
>
> 2. Whether on the facts and in the circumstances of the case, the Tribunal was right in law in holding that while computing the capital base for the purpose of relief under section 80J of the Income-tax Act, 1961 the amount received as subsidy from the Government was not to be deducted from the cost of the assets ?

2. So far as question No.1 is concerned, the learned counsel for the revenue fairly states that theissue has already been answered by the Apex Court in the case of **CIT V/s. P.J. Chemicals Ltd.**

[(1994) 210 ITR 830 (SC)] in favour of the assessee and against the revenue.

3. As regards question no.2 is concerned, the learned counsel for the revenue fairly states that the issueh as already been answered by the Division Bench of this Court in the case of **CIT V/s. Menezes Farmago [(1999) 236 ITR 780 (Bom)]** in favour of the assessee and against the revenue.

4. In this view of the matter, both the questions stand answered in affirmative for the reasons stated in the cases cited supra.

5. Reference, accordingly, stands disposed of with no order as to costs.

****